IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1093 of 2001(B)

OPMV.1396/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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APPELLANT/PETITIONER

JAMEELA N., W/O. KUNHALI KUTTY,
NADOTH HOUSE, P.O. NADAPURAM,
VIA VADAGARA, CALICUT DIST.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/RESPONDENTS
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1. **K. VIJAYENDRA KUMAR, S/O. KUMARAN,**
   KRISHNANAD, CHERATTUKUZHI, MALAPPURAM DIST.
   (SHOWN AS IN THE ORDER ie. K. VIJAYANDRA KUMAR).

2. **VENUGOPALAN, S/O. VELAYUDHAN NAIR,**
   KOTHAKULANGARA HOUSE,
   EDATHIL PADIVAYAL, BEYPORE AMSOM,
   NADUVATTAM

3. **UNITED INDIA INSURANCE CO. LTD.,**
   BRANCH OFFICE, V.D.B ROAD,
   R.S. PURAM, COIMBATORE.

BY ADV. SRI.P.MURALEEDHARAN,SC INSURANCE (R3)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1093 of 2001

Dated this the 7th day of December, 2007

Judgment

Koshy,J.

Appellant/Claimant, at the age of 38, sustained injuries in a motor accident. Appellant was travelling in a tourist car. The car was hit by a bus. The tribunal found that the driver of the bus was responsible for the accident as he was rash and negligent and third respondent was directed to deposit the amount awarded. The tribunal awarded only an amount of Rs.21,860/-. Quantum of compensation alone is disputed in this appeal.

2. Ext.A7 is the wound certificate and Ext.A8 is the index card issued from the Medical College Hospital, Calicut and Ext.A9 scan report would show that as a result of the accident injury was sustained to her forehead and she was treated in the Medical College Hospital for about 21 days. Ext.A8 also shows that she had clavicle fracture also. Ext.A9 would show that a foreign body was seen in the scan of the right frontal portion and she had cerebral oedema. Medical board certified 5% disability. Appellant was aged 38 and she was a house wife. The tribunal calculated

compensation taking a monthly of Rs.750/- and adopting a multiplier of 5. We are of the view that the valuable service done by a house wife cannot be under-estimated. In this connection, we refer to the decision of the Apex Court in Latha Wadhwa and aothers v. State of Bihar and others ((2001) 8 SCC 197) wherein service of a house wife was assessed at Rs.3,000/- per month. In this case, the accident occurred on 10.10.1992. Considering the circumstances, we fix Rs.1,500/- as the monthly income. If that be so, compensation payable for permanent disability will be Rs.1500 x 12 x 15 x 5/100 = Rs.13,500/-. The tribunal has assessed only Rs.6,750/- for disability and loss of earning power. Therefore, balance payable will be Rs.6,750/-. She was totally bed-ridden for three months out of which she was an inpatient for 21 days. Therefore, towards loss of actual earnings, she is entitled to Rs.4,500/- three months' income and loss of amenities for the above period of treatment. It was argued that for medical expenses only Rs.307/- was awarded on the basis of actual medical bills. She was an inpatient. Scan report and other various examinations were conducted and there will be many expenses not covered by bills. We award Rs.750/- towards additional medical expenses. Thus, claimant will be entitled to an

additional amount of Rs.12,000/- over and above the amount decreed by the tribunal. The above amount of Rs.12,000/- should be deposited by the third respondent insurance company with 7.5 % interest from the date of application till its deposit. On deposit of the same, appellant is entitled to withdraw the same.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1093 of 2001

Judgment

Dated:7th December, 2007